

April 7, 2004

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

**Re: RM-10865/DA No. 04-700—**  
Comments on the CALEA Petition for Rulemaking

Dear Secretary Dortch:

The National Sheriffs' Association (NSA) is now in its sixty-second year of serving the law enforcement and criminal justice professionals. Representing more than 3000 Sheriffs across the Nation, the NSA speaks on behalf of the elected chief law enforcement officers of America.

That is why we strongly support the petition by the U.S. Department of Justice (DOJ), Federal Bureau of Investigation (FBI), and U.S. Drug Enforcement Administration (DEA) filed on March 10, 2004, requesting that the FCC resolve various critically important issues arising from the implementation of the Communications Assistance for Law Enforcement Act (CALEA). It is imperative that the FCC initiate a rulemaking proceeding and adopt the rules proposed by the DOJ, FBI, and DEA as quickly as possible.

Congress enacted CALEA in 1994 to ensure that law enforcement has the ability to conduct authorized wiretaps in the future as technologies changed. Since 1994, many new communications technologies have arisen, including broadband Internet access, voice over IP telephony ("VoIP"), push-to-talk digital dispatch services, and other packet mode services. These services, currently used by millions of American citizens, pose a great challenge to state and local law enforcement in that many such providers of these communications services have failed to voluntarily adopt currently available CALEA intercept solutions. Thus, law enforcement has been thwarted in its attempts to implement a lawfully authorized surveillance intercepts. Voluntary industry compliance has been a complete failure.

State and local law enforcement do not have the financial or personnel resources to develop costly *ad hoc* surveillance solutions for each new communications service. Nor should they have to under the current law. For all equipment, services, and facilities deployed after January 1, 1995, Congress, through CALEA, expressly passed the burden of designing and paying for such surveillance solutions onto the telecommunications carriers themselves.

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The elected Sheriffs of America call upon the FCC to act in the interest of public safety, not corporate profits. The current condition is not acceptable and the FCC must act swiftly to bring an end to activities which thwart the efforts of law enforcement to protect the American people.

Sincerely,

Wayne V. Gay  
President